

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

RICARDO BROOKS GAMEZ,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-cv-00328

THE STATE OF NEW YORK, et al.,

Defendants.

ORDER

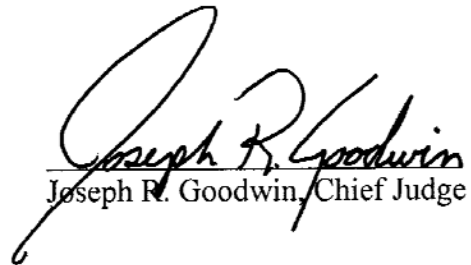
This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court **DISMISS** this action on the grounds that it is legally frivolous and fails to state a claim upon which relief can be granted. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and

recommendations. The court **FINDS** that this action is legally frivolous and fails to state a claim upon which relief can be granted and **DISMISSES** this action from the docket with prejudice.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 26, 2008



Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge